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BY ECF

November 21, 2023

The Honorable Mary Kay Vyskocil
United States District Court
Southern District of New York
500 Pearl Street, Room 2230
New York, NY 10007

Re: *Satanic Temple v. Newsweek* (22-CV-1343) – request for discovery extension

Dear Judge Vyskocil:

Pursuant to Individual Civil Rule 2(G), The Satanic Temple requests a thirty day extension to finalize fact discovery. The current deadline is December 7, 2023. (ECF 59). If this request is granted, the new deadline would be January 7, 2023. See FRCP 6(a)(1)(C) (30 days out falls on a Sunday). This is the third extension request and it is opposed by Newsweek.

For three reasons, good cause supports the request. See FRCP 16(b)(4).

First, additional documents and deposition testimony from Duin (the author) cannot be procured within the discovery deadline. By order dated November 16 (ECF 64), the Court authorized a subpoena duces tecum to Duin for an email from a previously undisclosed individual who provided Duin the sole basis to pitch the article. A subpoena has a 30-day turnaround time, so additional discovery time is needed for Duin to comply. Additionally, the Court leaves open the possibility of reopening Duin's deposition for testimony about the email. (ECF 64, at ¶ 2). As November 16 was the first time Plaintiff heard of this individual or this email, Plaintiff anticipates asking to reopen the deposition.

Second, more time is needed to resolve a discovery issue as to the income Newsweek generated from the subject article. The Court has previously held that Newsweek's valuation of the article is discoverable (ECF 55, at 39; ECF 47, at

2-3 ¶ 8). How much income Newsweek generated from the article was supposed to be elicited at the deposition of Newsweek, dated November 7. But Newsweek's deponent was unprepared to address the matter to be examined, thus requiring additional written discovery requests. The parties have already conferred on this issue and a joint letter is forthcoming.

Third, deposition testimony from Scott Malphas cannot be procured within the discovery deadline. Per order dated October 25, 2023 (ECF 61), Newsweek produced an email in which Malphas asserts the existence of nebulous coerced sexual activity within The Satanic Temple.¹ At her November 16 deposition, Duin testified that her decision to omit any fact investigation into the article statement was predicated upon Malphas's email. Because of this testimony, Plaintiff must depose Malphas. As Newsweek has not provided Malphas's true identity or whereabouts and Plaintiff's best-known information is over three years outdated, service of a subpoena will likely require more time than the two weeks remaining on discovery.

Newsweek's reluctance to comply with basic and universal discovery rules should not deprive the Court of an orderly summary judgment briefing and trial process. Thirty days will allow sufficient time for discovery to be finalized.

WHEREFORE Plaintiff respectfully requests a 30-day extension of time to finalize discovery, to January 7.

Respectfully submitted,

By: /s/ Matt Kezhaya

Matt Kezhaya (*pro hac vice*)



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¹ The email gives no further details and Duin did not ask for any.

CERTIFICATE OF SERVICE

NOTICE IS GIVEN that I, Matt Kezhaya, efiled the foregoing document by uploading it to the Court's CM/ECF system on November 21, 2023, which sends service to registered users, including all other counsel of record in this cause.

s/ Matt Kezhaya